XII-189 (Jail) C. J. P. R./I-91

CF0000057914

APPEAL OF PRISONER

No. 622 Name सुशील श्रीवं

Father's name बन्दू श्रीवं

Residence तलमा P.S. मेंढुगा रायगढ़ Age २३वर्ष

Sentenced to आजीवन कारावास on 02-12-94

Under Section 302 I.P.C. by मुख्य न्यायिक दंडा० रायगढ़

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will not proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all. if the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement ५

2 Date on which copy received ५

3 Date on which Appeal sent ५

4 Whether the prisoner wishes to be represented or not. ५

No. 622 Name सुशील श्रीवं

Confined in जिला Jail रायगढ़

No. 1955 Dated 12-12-94 199

Forwarded to the मुख्य न्यायिक दंडा० रायगढ़

to gether with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate court.

निर्णय प्रतिलिपि - संलग्न ।

Superintendent Raigarh
Dist. Jail

Superintendent Jail

Date of receipt in Office

Date of receipt of record to accompany the

Memo of Appeal to the Appellate court

No. 6/CJM Rajgarh Dated 20-2-95 199

~~Forwarded to the~~ Submitted to Hon'ble Judge Raigarh

Date of receipt in Appellate court

(G. B. Bajpai)
Addl. Judicial Magistrate
Raigarh (M.P.)

XI-HC-22

(13)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A.No. 782/95 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO. 782 of 1995

Appellant : Susheel Uraon

Vs.

Respondent : State of Madhya Pradesh

Shri Surya Kant Mishra, learned counsel for the appellant.

Shri U.N.S.Deo, learned Additional Public Prosecutor with Shri M.P.S. Bhatia, learned Panel Lawyer for the respondent/State.

ORAL JUDGMENT
(08.02.2006)

L.C.Bhadoo, J

By this appeal under Section 374(2) of the Code of Criminal Procedure the appellant has questioned the legality and correctness of the judgment of conviction and order of sentence dated 03.12.1994 whereby learned Sessions Judge, Raigarh after holding the accused/appellant guilty for commission of murder of his father Bandu Ram Uraon convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life.

2. Case of the prosecution, in brief, is that P.W.-1 Kamla Ram gave report (Ex.P-1) in the police station Lailunga to the effect that on 30.05.1994 his elder brother in law Mangra Ram came at about 5.00 a.m. and informed that Susheel Uraon, his brother in law has committed murder of his father Bandu Ram with axe at about 4.00 a.m. in the morning. Thereafter he

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	reached the house of Bandu Ram and saw the dead body. There were grievous injuries on the chest, head and neck. The body was drenched with blood. He made enquiry from his mother in law Bandhini Bai P.W.-2 on which she replied that a day before thereto in the evening, the accused demanded food on which deceased Bandu Ram replied "you are not working therefore food will not be provided". At this the accused Susheel Uraon threatened his father, abused him and went away and on the following day at about 4.00 a.m., accused assaulted his father with axe. Receiving this report the S.H.O. registered the case under Section 302 of the IPC and recorded the merg intimation P-2. After giving notice to the panchas P-3 prepared panchnama of the body of Bandu Ram P-4. He also took into possession plain soil and blood stained soil from the place of occurrence P-5 and the weapon of offence, axe and lungi of the accused was taken into possession under P-6. Site plan P-7 was prepared. The body of the deceased was sent for post mortem examination to Community Health Centre, Lailunga (P-8) where Dr. Shailendra Upadhyaya P.W.-6 conducted the post mortem on the body of Bandu Ram Uraon and prepared the post mortem report P-16 which he opined that the cause of death is due to coma as a result of inter cereberal hemorrhage due to head injury. After completion of the investigation the charge sheet was filed in the Court of Judicial Magistrate First Class, Gharghoda who in turn committed the case to the Sessions Judge, Raigarh for trial.	
3.	The prosecution in order to establish the charge against the accused examined as many as six witnesses. Statement of the accused was also	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence.	
4.	Learned Sessions Judge after hearing the arguments of the learned Additional Public Prosecutor and counsel for the accused/appellant convicted and sentenced the accused as mentioned in paragraph one of this judgment.	
5.	We have heard Shri Surya Kant Mishra, learned counsel for the appellant and Shri U.N.S.Deo, learned Addl. Public Prosecutor with Shri M.P.S.Bhatia on behalf of the State.	
6.	Homicidal nature of death of Bandu Ram Uraon is not in dispute.	
7.	As far as the involvement of the accused/appellant in committing the murder of his father with axe is concerned, P.W.-2 Bandhni Bai, mother of the accused and wife of the deceased who was present in the house at the time of the offence has stated that on the fateful day she was sleeping in the verandah in wee hours the accused/appellant came there and enquired from her that who were sleeping there on which she replied that his father and ~~herself~~ she were sleeping there. Thereafter accused/appellant Susheel Uraon assaulted his father with the axe on his chest and when she made her husband able to stand up and brought him in the verandah he again fell down. Thereafter the accused/appellant again assaulted with the axe on the back side of his head near the shoulder and again assaulted near the temple as a result of which he fell down. At that time her daughter Parsan came there and took her out considering that the	

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	accused may attack her also. P.W.-1 Kamla Ram who is the son in law of the deceased has stated that on receiving the information through Mangra Ram he came to the spot and on enquiry Bandhni Bai appraised him about the incident upon which he lodged the report.	
8.	In the cross examination of Bandhni Bai the defence has not been able to elicit any circumstance which makes the evidence of Bandhni Bai unreliable or untrustworthy as she has stated in her cross examination that when the accused asked for food from her husband, her husband replied that since he is not working therefore he will not provide any food to him which enraged the accused. On further cross examination she has stated that she is unable to say that whether the accused was mentally sound or not. The above evidence stands corroborated by the medical evidence of P.W.-6 Dr.Shailendra Upadhyaya who conducted the post mortem on the body of Bandu Ram and found that there was incised wound near the left ear in the size of 1x.5", the frontal bone was fractured, the orbital fossa was also fractured and even as per the evidence of P.W.-4 G.P.Shrivas, the weapon of offence, axe was recovered at the instance of the accused, therefore, involvement of the accused/appellant in the crime in question is established.	
9.	Learned counsel for the accused/appellant argued that the offence against the accused/appellant does not travel beyond Section 304-II of the IPC but we are not satisfied with the argument of the learned counsel of the accused/appellant for the reason that first of all the accused assaulted the deceased when he was sleeping and thereafter when he stood up he	

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	again, assaulted on the head with the axe which shows that the accused assaulted the deceased with an intention to cause his death.	
10.	For the foregoing reasons, we are of the view that there is no illegality or infirmity in the judgment and finding of the trial Court which is under challenge.	
11.	In the result, the appeal is devoid of merits and the same is liable to be dismissed and it is accordingly dismissed.	

Sd/-
L.C. BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

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